



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard, Jr.
Secretary

August 21, 2012

Sent by Electronic Mail – Received Receipt Requested

Laura A. Gray, P.E.
Environmental Manager
Lee County Solid Waste Division
P.O. Box 398
Ft. Myers, FL 33902-0398

RE: Lee County Solid Waste Energy Recovery Facility (PA 90-30)
Amendment Approval (AM12-030)
Additional Site Impervious Area

Dear Ms. Gray:

On July 25, 2012, the Florida Department of Environmental Protection (Department), Siting Coordination Office received a request from Lee County for an amendment to the Lee County Solid Waste Energy Recovery Facility (LCSWERF) Site Certification Application (SCA). The amendment request is for the construction of additional impervious areas consisting of roadway widening, expansion of the existing guard/scale house, employee break room, and two additional parking lots.

Based on a review of the information submitted on July 25, 2012, the Department has determined that this proposal is an amendment to LCSWERF's SCA pursuant to subsection 62-17.205(1), Florida Administrative Code (F.A.C.). Based upon the information provided, the existing surface water management system has adequate storage capacity for additional surface water runoff created by the additional impervious area. The Department has no objections to the proposed project and hereby approves the amendment request, provided that Lee County continues to comply with the existing Conditions of Certification.

The Department's order shall become final unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, Florida Statutes (F.S.), within **21** days of receipt of this order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this order have the following options:

If you choose to accept the above decision by the Department concerning the postcertification amendment you do not have to do anything. This order is final and effective as of the date on the top of the first page of this order.

If you disagree with the decision, you may do one of the following:

1. File a petition for administrative hearing with the Department's Office of General Counsel within **21** days of receipt of this order; or

2. File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within **21** days of receipt of this order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to Section 120.573, F.S., is not available.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to subsection 62-110.106(4), F.A.C., the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Blvd., M.S. 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this order. Petitioner, if different from the addressee, shall mail a copy of the request to the addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this order may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Blvd., M.S. 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this order. Petitioner, if different from the addressee, shall mail a copy of the petition to the addressee at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under Sections 120.569 and 120.57, F.S.

Pursuant to Sections 120.54(5)(b)4 and 120.569(2), F.S., and Rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

- a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the DEP certification number for the facility and the name and address of the facility;
- b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- d) A statement of the material facts disputed by the petitioner, or a statement that there are no disputed facts;
- e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This order is final and effective as of the date on the top of the first page of this order. Timely filing a petition for administrative hearing postpones the date this order takes effect until the Department issues

either a final order pursuant to an administrative hearing or an order responding to supplemental information provided to the Department pursuant to meetings with the Department.

Judicial Review

Any party to this order has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Blvd., M.S. 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order is filed with the clerk of the Department (see below).

Questions

Any questions regarding the Department's review of this amendment request should be directed to Bobby Bull at (850) 245-2001. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2257. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

Sincerely,



Cindy Mulkey
Administrator,
Siting Coordination Office

CC by email:

John Iglehart, FDEP: john.iglehart@dep.state.fl.us

Randal Landers, FDEP: randal.landerson@dep.state.fl.us

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.


Clerk

8-21-2012
Date

August 20, 2012

Service List: CC by email (return receipt requested)

Toni Sturtevant, Esquire
Department of Environmental Protection
3900 Commonwealth Blvd., M.S. 35
Tallahassee, Florida 32399-3000
toni.sturtevant@dep.state.fl.us

David Hutchinson, Planning Director
Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, FL 33990
dhutchinson@swfrpc.org

Adam Teitzman, Attorney Supervisor
Florida Public Service Commission
Office of General Counsel
2450 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ateitzma@psc.state.fl.us

Scott Sanders
FL Fish & Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, FL 32399-1600
FWCCConservationPlanningServices@myfwc.com

Julie Evans
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399
julie.evans@deo.myflorida.com

Melinda Parrot
South Florida Water Management District
P.O. Box 24680
West Palm Beach, FL 33416-4680
mparrot@sfwmd.gov

Kelly Samek, Esquire
FL Fish & Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, FL 32399-1600
kelly.samek@myfwc.com

David Jordan, Esquire
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399
david.jordan@deo.myflorida.com

Michael Hunt, Esquire
Lee County Attorney
Post Office Box 398
Fort Myers, Florida 33902-0398
MHunt@leegov.com

Kimberly Menchion, Esq.
Assistant General Counsel
Department of Transportation
605 Suwannee Street, MS 58
Tallahassee, FL 32399-0458
kimberly.menchion@dot.state.fl.us

David S. Dee, Esquire
Gardner, Bist, Wiener, Wadsworth, Bowden, Bush,
Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee FL 32308
ddee@gbwlegal.com

Mike Duff
Facility Manager- Lee
Covanta Energy
10500 Buckingham Rd.
Fort Myers, Florida 33905
Mpduff@CovantaEnergy.com

Tyler Huffman
Environmental Manager
Covanta Energy
10500 Buckingham Rd.
Fort Myers, Florida 33905
thuffman@CovantaEnergy.com